IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

JIMMY D. CUMMINS	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 6:17-CV-3122
	)	
GEICO CASUALTY COMPANY,	)	
	)	
Defendant.	)	

FIRST AMENDED COMPLAINT

ALLEGATIONS COMMON TO ALL COUNTS

COMES NOW, Plaintiff, Jimmy D. Cummins by and through his attorney of record, Bradley L. Bradshaw and Janelle Bailey of Brad Bradshaw, M.D., J.D., L.C., and for his claims and causes of action against the Defendant, GEICO Casualty Company, (hereinafter GEICO) alleges and states as follows:

PLAINTIFF

1. That Plaintiff Jimmy D. Cummins is an individual citizen and resident of Walnut Grove, Greene, MO.

DEFENDANT

2. That Defendant GEICO is and was at all times relevant herein a foreign corporation in good standing to wit, an insurance company authorized to do and doing business in the State of Missouri.

JURISDICTION AND VENUE

3. That the acts hereinafter mentioned giving rise to this cause of action all occurred in Greene County, Missouri; that the cause of action is on a contract; that Plaintiff's damages exceed

$25,000.

FACTS OF THE OCCURRENCE

4. On or about March 10, 2016 at approximately 12:05 PM, Plaintiff Jimmy D. Cummins was operating his 2012 Chrysler 300 in a general eastbound direction on Hwy CC in Greene County, Missouri, near Stokes Lane.

5. That on or about March 10, 2016 at approximately 12:05, PM two unidentified motorists (hereinafter "John Doe" and "James Doe") were each located on Hwy CC, in Greene County, Missouri, near Stokes Lane.

6. At the aforementioned time and place, two unidentified motorists, negligently and carelessly, caused each of their vehicles to be parked on the roadway just around a curve and block both lanes of the roadway forcing said Plaintiff Jimmy D. Cummins off the roadway, down a steep embankment and into thick trees. John Doe and James Doe fled from the scene. Plaintiff Jimmy D. Cummins was forced into and about the inner portion thereof, and injuring the Plaintiff as is more specifically alleged below.

7. That as a direct and proximate cause of said collision caused by the negligence of John Doe and James Doe, as aforementioned, Plaintiff Jimmy D. Cummins was caused to be seriously and permanently injured in one, more than one, or all of the following respects, to-wit:

   a. That Plaintiff Jimmy D. Cummins has suffered painful, permanent, and progressive bodily injury to his head including traumatic brain injury, lacerations to hands, left knee, back, several fractured ribs, and trauma-induced cardiac episode;

   b. That Plaintiff Jimmy D. Cummins has suffered and will continue to suffer from severe and violent injury his ligaments, nerves, bones, and tissues throughout his body;

   c. That Plaintiff Jimmy D. Cummins suffered serious worsening of multiple preexisting illnesses to the extent such even existed;

d. That as a direct and proximate cause of John Doe' and James Doe' negligence, Plaintiff Jimmy D. Cummins has incurred, and will incur in the future, significant medical bills and expenses, healthcare expenses, and prescriptive expenses, the exact amount of which are presently unknown;

e. That as a direct and proximate cause of John Doe' and James Doe' negligence, Plaintiff Jimmy D. Cummins has suffered pain, physical impairment and loss of life's enjoyment.

8. That Defendant GEICO was presented with a demand for settlement for One Hundred Thousand Dollars ($100,000.00), or policy limits of insurance, whichever is less, but refused said demand.

9. That Defendant GEICO was again presented with a demand for settlement for One Hundred Thousand Dollars ($100,000,00), or policy limits of insurance, whichever is less, but refused said demand.

COUNT I

COMES NOW, Plaintiff Jimmy D. Cummins and for Count I of his cause of action against Defendant GEICO, alleges and avers as follows:

10. That Plaintiff incorporates the preceding paragraphs of this Complaint as though fully set forth herein in hace verba.

11. That at the time of the mentioned collision, Plaintiff Jimmy D. Cummins was insured under a policy of insurance issued by Defendant GEICO; and that under the mentioned policy, each vehicle operated by John Doe and James Doe was an "uninsured motor vehicle."

12. That the "Limits of Insurance" under the Policy available to Plaintiff Jimmy D. Cummins for the damages he sustained, as a result of the mentioned collision are One Thousand dollars ($100,000.00).

13. That Defendant GEICO has breached the terms of the uninsured motorist's coverage by failing to pay Plaintiff Jimmy D. Cummins the amount of damages to which he is legally entitled to recover from Defendant GEICO as a result of the damages he sustained in the mentioned collision.

14. That Plaintiff Jimmy D. Cummins has performed all of the conditions required under the Policy or performance has been excused by Defendant GEICO's breach, as set forth herein.

15. That Defendant GEICO has had all the information on which to pay Plaintiff Jimmy D. Cummins the fair amount of his uninsured motorist's claim since March 10, 2016; however, Defendant GEICO has failed and refused to do so in violation of RSMo §375.420.

16. That as a result of Defendant GEICO's breach, Plaintiff Jimmy D. Cummins has sustained damages.

17. That as a result of the Defendant GEICO's failure and refusal to pay Plaintiff Jimmy D. Cummins the fair amount of his damages resulting from the mentioned collision, Plaintiff Jimmy D. Cummins is entitled to penalties as provided in RSMo §375.420 and attorney fees in the amount of one-third percent (1/3%) of the amount assessed as damages.

WHEREFORE, Plaintiff prays for judgment against the Defendant GEICO on Count I of this Complaint for Damages in an amount that is fair and reasonable as determined by either the Court and a jury and those damages permitted by law; for Plaintiff's attorney fees in the amount of one-third percent (1/3%) of the verdict, costs herein expended and incurred; and for such further and other relief as the Court deems just and proper under the premises.

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By: ______________________________
Janelle Bailey
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Attorneys for Plaintiff

JURY DEMAND

Plaintiff hereby requests a 12-person jury trial in the above-captioned cause in accordance with the laws of the State of Missouri.

____
Janelle N. Bailey

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 12th day of May, 2017, I electronically filed the foregoing with the Clerk of the District Court by using the CM/ECF/PACER system, which will send notice of the electronic filing to the following counsel of record.

Irene J. Marusic
Brown & James, PC
800 Market Street Ste. 1100
Saint Louis, MO 63101
Attorney for Defendant

By:______________________________
Janelle N. Bailey, Attorney For Plaintiff